

REMARKS

In response to the Office Action mailed November 14, 2002, the Applicant respectfully requests that the Examiner enter the above amendments and consider the following remarks. A marked-up version of the changes is attached hereto. Claims 21 and 28 have been amended to more clearly describe the invention, and claims 1-13 have been canceled without prejudice. As a result, claims 21-40 are pending in the application. The Applicant respectfully requests further examination and reconsideration of the application in light of the amendments and accompanying remarks.

Rejection of Claims 21-40 Under 35 U.S.C. § 112

The Examiner rejected claims 21-40 under 35 U.S.C. § 112, first paragraph, as not being enabled by the disclosure. The Applicant respectfully traverses the rejection.

On page 3, lines 7-11, of the specification, the Applicant describes some examples of final shapes that may be formed from the composites. In addition, the Applicant describes an exemplary mode of forming the final shapes on page 6, lines 9-16, and page 7, lines 12-18, of the specification. Therefore, the Applicant respectfully submits that the specification sufficiently enables claims 21-40.

Double Patenting

The Examiner rejected claims 1-13 under the judicially created doctrine of obviousness-type double patenting over claims 1-6 of U.S. Patent No. 6,011,091 and over claims 1-8 of U.S. Patent No. 6,103,791. In the amendment filed September 19, 2002, the Applicant inadvertently failed to cancel claims 1-13. Accordingly, the

Applicant has formally canceled claims 1-13 herein in order to pursue a different embodiment of the present invention.

Rejection of Claims 1-13 and 28-40 Under 35 U.S.C. § 102(e) or 103(a)

The Examiner rejected claims 1-13 and 28-40 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Cope '016, Cope '927, or Cope '680, in view of Waki et al. or Brandt. The Applicant respectfully traverses the rejection of claims 28-40. In an unrelated amendment, the Applicant has canceled claims 1-13 without prejudice.

Cope '016, Cope '927, and Cope '680 are each directed to foam composites which include blowing agents. The blowing agents alter the fundamental physical and aesthetic characteristics of the composite. In addition, each of these primary references teach the need for an intermediate pelletizing step. Therefore, the Applicant respectfully submits that Cope '016, Cope '927, and Cope '680 cannot support the rejection of claims 28-40 under 35 U.S.C. § 102(e).

There is no motivation to combine Waki et al. or Brandt with any of the primary references. Each of the primary references teach against any method that does not include a pelletizing step. In addition, neither Waki et al. nor Brandt teach or suggest the particular composites of the present invention.

In order to more clearly describe this embodiment of the present invention, the Applicant has amended claim 28. In light of the amendment, the Applicant respectfully submits that Cope '016, Cope '927, or Cope '680, in view of Waki et al. or Brandt cannot support the rejection of claims 28-40 under 35 U.S.C. § 103(a).

Rejection of Claims 21-27 Under 35 U.S.C. § 102(b)

The Examiner rejected claims 21-27 under 35 U.S.C. § 102(b) as being anticipated by Laver. The Applicant respectfully traverses the rejection.

The Applicant appreciates the fact that Laver includes polypropylene in a list of thermoplastic materials that may be used to make a wood-polymer composite. However, that mere fact does not motivate one of ordinary skill in the art to substitute polypropylene for the polyethylene in the examples provided in the patent. Laver was simply providing examples of materials that may be used to make different types of polymer-wood composites. The Applicant respectfully submits that polypropylene is not considered to be equivalent to polyethylene by those of ordinary skill in the art just like polyethylene is not considered to be equivalent to polyvinyl chloride by those of ordinary skill in the art. Absent some teaching or suggestion that polypropylene is directly substitutable for polyethylene in polyethylene-wood composites, the Applicant respectfully requests the Examiner to provide evidence that polypropylene is considered to be equivalent to polyethylene by those of ordinary skill in the art. The Applicant respectfully submits that hindsight may not be used by the Examiner to arrive at the present invention. Therefore, the Applicant respectfully submits that Laver cannot support the rejection of claims 21-27 under 35 U.S.C. § 102(b).

Rejection of Claims 28-40 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 28-40 under 35 U.S.C. § 103(a) as being unpatentable over Laver in view of Cope '016, Cope '927, or Cope '680 further in view of Waki et al. or Brandt. The Applicant respectfully traverses the rejection.

Laver does not teach or suggest a method of making a particular PVC composite. The amounts of lubricant referred to by the Examiner are for a polyethylene-wood composite. There is no teaching or suggesting that the PVC is directly substitutable for the polyethylene in the examples provided by Laver. In addition, the ratios provided in column 6, lines 61-64, have no significance since Laver does not teach the amounts of other ingredients that may be included in a PVC-wood composite. None of the secondary references overcome the shortcomings of Laver. Neither Cope '016, Cope '927, Cope '680, Waki et al., nor Brandt teach or suggest the method of making the particular composite product of the present invention. In addition, as noted above, there is no motivation to combine any of the Cope references with Laver, Waki et al., or Brandt since the Cope references teach against any method of making a composite that does not include a pelletizing step. The Applicant has amended claim 28 to more clearly describe that this embodiment of the present invention does not include a pelletizing step. Therefore, the Applicant respectfully submits that Laver in view of Cope '016, Cope '927, or Cope '680 further in view of Waki et al. or Brandt cannot support the rejection of claims 28-40 under 35 U.S.C. § 103(a).

CONCLUSION

The Applicant has distinguished claims 21-40 over the cited references. Therefore, the Applicant respectfully submits that the present application is now in condition for allowance, and such action is earnestly requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Please cancel claims 1-13 without prejudice.

Please amend the following claims:

21. (twice amended) A method of manufacturing a cellulosic/polymer product, said method consisting essentially of:

mixing together a composite consisting essentially of:

- (a) at least one cellulosic filler in an amount of about 30% to about 70% by weight of said composite; and
- (c) at least one polypropylene material in an amount of about 30% to about 70% by weight of said composite, said at least one polypropylene material comprised of at least one lubricant in an amount of about 10 to about 20 parts per 100 parts of a polypropylene resin;

transferring said composite directly to an extruder such that a pelletizing step is eliminated; and

extruding said composite through a die to form a final shape.

28. (amended) A method of manufacturing a cellulosic/polymer product, said method consisting essentially of:

mixing together a composite consisting essentially of:

- (a) at least one cellulosic filler in an amount of about 30% to about 60% by weight of said composite; and

- (b) at least one polyvinyl chloride material in an amount of about 40% to about 70% by weight of said composite, said at least one polyvinyl chloride material comprised of at least one stabilizer in an amount of about 1 to about 10 parts per 100 parts of a polyvinyl chloride resin, at least one lubricant in an amount of about 2 to about 12 parts per 100 parts of said polyvinyl chloride resin, and at least one process aid in an amount of about 0.5 to about 8 parts per 100 parts of said polyvinyl chloride resin;

transferring said composite directly to an extruder such that a pelletizing step is eliminated; and

extruding said composite through a die to form a final shape.